

# **Exhibit 1**

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5 -and-

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ALL NIPPON AIRWAYS COMPANY, LTD.  
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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 ALL NIPPON AIRWAYS COMPANY, )  
LTD., )  
15 Plaintiff, )  
16 vs. )  
17 UNITED AIR LINES, INC., )  
18 Defendant. )

Case No. C07-03422 EDL

**DECLARATION OF MARSHALL  
S. TURNER IN SUPPORT OF  
ALL NIPPON AIRWAYS  
COMPANY, LTD.'S RESPONSE  
TO UAL'S MOTION FOR  
PROTECTIVE ORDER**

Hearing Date: December 18, 2007  
Hearing Time: 9:00 a.m.  
Hearing Place: Courtroom of Hon.  
Elizabeth D. Laporte

19 AND RELATED COUNTER-CLAIM  
20

21 **DECLARATION OF MARSHALL S. TURNER**

22 Marshall S. Turner, being duly sworn, deposes and says:

23 1. I am an attorney and a member of the law firm of Condon & Forsyth LLP,  
24 attorneys for Plaintiff and Counter-Defendant All Nippon Airways Co., Ltd.  
25 ("ANA") in the above-captioned matter. I make this declaration in support of  
26 ANA's Response to United Air Lines, Inc.'s ("UAL") Motion for Protective Order.  
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2. Numerous unfounded and erroneous statements and accusations are contained in UAL's Motion and the Declaration of its counsel that are neither true nor relevant to this motion and they are not worthy of being addressed in this Response. In fact, this Motion is a waste of this Court's time and involves an issue that is clearly covered by the Federal Rules and should have been resolved among counsel.

3. In my letter of November 2, 2007, I requested UAL to advise me of available dates in January 2008 for the deposition of UAL's Fed. R. Civ. P. 30(b)(6) "Person Most Knowledgeable" (hereinafter referred to as "PMK") with regard to the Standard Ground Handling Agreement (hereinafter referred to as the "SGHA"). Attached as Exhibit A is a true and correct copy of my November 2, 2007 letter. In telephone conversations with UAL's counsel, I further requested dates of availability of UAL's PMK witness. UAL provided no response to my letter of November 2, 2007 or to my oral requests.

4. On November 13, 2007, after the hearing in which the Court directed that the parties meet and confer regarding the location of the deposition of ANA's PMK witness on the SGHA, I immediately requested that my client determine whether a witness could be located who could be produced for deposition in the United States on short notice. My client has informed me that they would identify such a witness by mid-December who would be available before the end of January.

5. On November 15, 2007, ANA noticed the deposition of UAL's PMK witness for January 8, 2008. However, as I stated to UAL's counsel during the "meet and confer" on November 20 and in my letter dated November 21, 2007, I only noticed UAL's deposition because I had not received any response to my requests that UAL provide dates when UAL's PMK witness on the SGHA would be available. Attached as Exhibit B is a true and correct copy of my November 21,

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1 2007 letter. I informed Mr. Torpey that I was not insisting that UAL's witness be  
2 deposed on January 8, 2008, but that there was no priority of discovery under the  
3 Federal Rules and I would not agree to wait for deposition dates for UAL's witness  
4 until after ANA's witness was deposed.

5 6. In its Order dated November 19, 2007, this Court ordered that the  
6 deposition of ANA's PMK witness take place no later than March 15, 2008. Even  
7 before this order was issued, however, ANA had begun the process of identifying a  
8 suitable SGHA witness who could be made available at a more convenient location  
9 than Japan as soon as possible. At no time did I suggest or represent that I would  
10 not present such a witness until near the end of the period set by the Court.

11 7. My position on this issue has been and remains, since there is no discovery  
12 priority under the Federal Rules, there is no reason for ANA to bring its discovery  
13 efforts to a halt until UAL finishes its discovery.

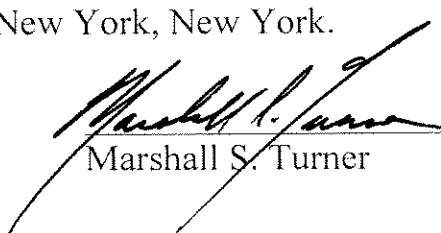
14 8. ANA has not insisted upon priority, but has consistently attempted to  
15 amicably resolve the deposition scheduling of UAL's witnesses. In fact, I have  
16 requested dates for depositions of UAL's flight crew since July 2007 and in  
17 September, I was constrained to issue Notices of Depositions of UAL witnesses to  
18 take place in December. To date, UAL has failed to confirm dates for UAL's  
19 flight crew's depositions even though ANA has already produced its flight crew in  
20 San Francisco, which depositions concluded on November 29, 2007.

21 9. I expect to provide a date and location for the deposition of ANA's PMK  
22 witness on the SGHA by mid-December 2007. I have informed UAL's counsel of  
23 this and I would expect the deposition to take place during January 2008. The  
24 actual day may be before or after the date noticed for the deposition of UAL's  
25 PMK witness on this issue. However, the Federal Rules clearly do not provide for  
26 a discovery priority and there is no reason for ANA to halt its discovery on this  
27 issue until after UAL completes its discovery of ANA.

1 10. For the reasons set forth in the accompanying Brief, Plaintiff All Nippon  
2 Airways Co., Ltd. respectfully requests this Court to deny UAL's motion for a  
3 protective order precluding the deposition of UAL's PMK witness until after the  
4 deposition of ANA's PMK witness.

5 I declare under penalty of perjury under the laws of the United States of  
6 America that the foregoing is true and correct.

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8 Executed this 3rd day of December, 2007, at New York, New York.

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11 Marshall S. Turner  
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